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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,666	03/05/2002	Casey O'Hara	VT0309-US1	3831

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EXAMINER

SCHAETZLE, KENNEDY

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/092,666	O'HARA	
	Examiner	Art Unit	
	Kennedy Schaetzle	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-22 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: none of the reference numbers associated with Figs. 7 and 8 are included. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Figs. 7 and 8 are not described (note also the "Brief Description of the Drawings" section). The specification abruptly ends in mid-sentence on page 16, with the first claim beginning on page 17. No new matter will be permitted entry. The examiner also requests verification that the housing and header have a *cylindrical* cross-section rather than a *rectangular* cross-section along a line taken perpendicular to the straight edge of the housing (see page 15, paragraph 1). In addition, the applicant's assertion that the recess shown in Fig. 4 is supported in three orthogonal directions does not appear to be entirely accurate. Although the examiner understands the applicant's intent, the two sidewalls 234 and 236 are not orthogonal to each other as they represent parallel surfaces (a similar comment applies to the four-sided orthogonal structure).

Appropriate correction is required.

Claim Objections

3. Claim 12 is objected to because of the following informalities: a text omission appears on line 3. The examiner will assume that it was the applicants' intent to insert the word "header" prior to the word "has." Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanchez-Zambrano (Pat. No. 5,895,414).

Claims 1, 4 and 6 are clearly anticipated.

Regarding claim 5, the examiner considers at least a portion of the two side recess surfaces (those surfaces not receiving the connectors 29 and 31) to be abutting the header in two orthogonal directions, with the feed-through surface representing a third orthogonal direction.

Regarding claim 7, the examiner considers the two side surfaces discussed above to be opposed surfaces.

Claim Rejections - 35 USC § 102/103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3762

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 4-8 and 10-22 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ruben et al. (Pub. No. 2003/0144707).

Ruben et al. clearly show in Fig. 1 a housing with the recited recess as defined in claim 1. Although Ruben et al. are not particularly concerned with the specifics of the header structure and therefore do not explicitly mention a plurality of lead bores including an electrical contact within each bore and with each contact connected to circuitry in the housing, the examiner considers such structure absolutely necessary in order for the device to function as described in par. 0018 and make electrical and mechanical contact with leads for placement within the body. In any event, the examiner takes Official Notice that such structure is old and well-known. Those of ordinary skill in the art would have seen the provision of such structure as blatantly obvious.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruben et al. (Pub. No. 2003/0144707) in view of Westlund (Pat. No. 5,749,911).

Ruben et al. do not disclose the embodiment wherein the recess is defined through the entire thickness of the housing. Westlund, however, shows that such an embodiment can be employed depending on the internal components within the housing (note Figs. 2 and 7 and the text of col. 5, lines 44-65). Clearly the choice is one of obvious design since both header designs are old and well-known in the implantable medical device arts. Those of ordinary skill in the art would have therefore considered the depth of the recess to be a matter of obvious design dependent upon a variety of parameters including, but not limited to, the scale of components located within the housing.

Allowable Subject Matter

10. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record does not teach the concept of incorporating a plurality of recess surfaces abutting the header with each surface being angularly offset from one another, and wherein at least a plurality of the surfaces include a conductive feed-through extending from the housing chamber to the header.

Conclusion

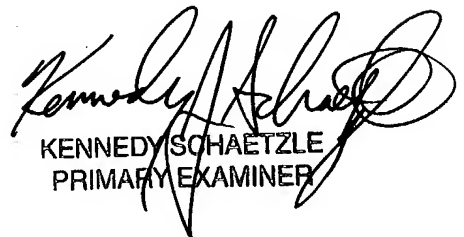
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kennedy Schaetzle whose telephone number is 703 308-2211. The examiner can normally be reached on 9:30 -6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703 308-0851. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KJS
June 27, 2004


KENNEDY SCHAETZLE
PRIMARY EXAMINER